

CITY OF CHATTANOOGA  
STORM WATER REGULATIONS BOARD

MINUTES

October 24, 1994  
Council Assembly Room, City Hall

- I. Call to Order - Chairman at 4:09 p.m. (confirmed public notice)
- II. Roll Call, Introductions

Members

Ray Childers, Chairman - present  
Tom Carson - absent  
Derek V. Henry - present - manages residential properties *Vice Chairman*  
Evelyn Lovelady - present - retired school principal  
Vicki James - ~~absent~~  
Mike Poe, *Secretary* present - Manager, Safety & Velsicol - raised in East Lake, now lives in Brainerd  
Charles Shaw - Absent

*Health & Environmental Affairs*  
*James*

Also Present

Jack Marcellis, Public Works Administrator  
Jack Wilkinson, City Engineer  
Tom Scott, Stormwater Manager  
Mike McMahan, Special Counsel, City Attorney's Office

- III. Legal Presentation (Held from last meeting) - Mike McMahan

Explained that the "Sunshine Law" applies to all public boards. All motions and votes must be recorded. Must give adequate public meeting notice and cannot retire to make decisions--must do in public. Cannot discuss ahead of time. Cannot meet as two or more to discuss. Consequences of failure: Void actions/subject to being brought to court and on second offense, jail and fines. Mike McMahan available at 757-5338 at office at any time needed for consultation.

Explained authority of Board. Hear appeals of decisions of Stormwater Management in permit revocations, etc., and the accuracy of fees charged based on impervious surface, land use, etc. Consider granting variances dealing with permitting of land-disturbing activities concerning requirements.

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The Board has the power to issue subpoena within City limits for information for deciding cases. City Attorney will be personally present at each meeting or have representation.

Liability of Board - Government Tort Liability Act provides no liability for Board members. Could make actions that would make City liable. Maintaining of personal notes okay, but could be subpoenaed if future litigation. Also have power to direct changes in ordinances to City Council for consideration. Staff could also bring changes for review.

Explained duties of officers as follows:

Vice Chairman - act instead of Chairman as required.

Secretary - no explicit duties.

IV. Selection of Officers (Held from last meeting)

Vice Chairman - Mike Poe nominated Evelyn Lovelady, seconded by Derek V. Henry. Elected by acclamation.

Secretary - Derek Henry nominated Mike Poe, seconded by Evelyn Lovelady. Elected by acclamation.

V. Dates and Times for Future Meetings

Per ordinance, meetings are to be held a minimum of twice per year. Suggest Monday at 5:00 p.m., not conflicting with School Board meetings. Set future as needed.

VI. Hearing of Appeals

Chairman administered oath to Tom Scott, Ora Powell, Eva Powell, James Vandergriff, and James Nash.

A. Notifications Sent

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1. Ora Powell, Hooker Road and 2000 Rossville Boulevard, representing mother Eva Powell, who was also present.

Tom Scott

Tom Scott gave information to Board that included use, photos, and fee calculation of properties.

Use: salvage yard/used parts, by NPDES permit is considered industrial.

156I B009

2807 Rossville Boulevard - industrial use is 75 percent impervious, but land has hard surface.

167M-A-003, Hooker Road - also salvage yard/industrial use. Forest area was exempted from calculation with no charge to area of industrial area.

Some grass area but impossible to calculate impervious areas.

Mrs. Eva Powell, owner, referred to wall on property but did not explain further.

Ora Powell, daughter of Eva Powell, explained that there are three pieces of property--rain water does not run off on others but runs to ditches that are in bad shape. A regular rain soaks up. In heavy rain, the ditches overflow on their property not running off but running on. She distributed information to Board. Suggested reading letter from Harlan Matthews, Senator. Ms. Powell laid out maps for Board to see, explaining that all water to north and east flows into Chattanooga. Explained that very little oil from cars.

Mike McMahan summarized her contention that fee is unfair, that property receives stormwater, and

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that water soaks in, so storm fee should be less. Suggests funds from Federal Government.

Derek Henry asked Tom Scott to delineate forest on Hooker Road lands that was exempt. He drew these on the plat of the property, and this was shown to Board. Mike Poe asked how were calculations done for runoff. He was referred to ordinance by Tom Scott who explained that the ordinance (Section 31-354) factors would be used, but any areas that were definitely porous would be exempt. Ora Powell explained that some areas are now vacant. It was explained that they were not vacant at time fee was imposed. Unable to determine exact time. Should have been one year, but left "stuff" there for a while longer. Is asking for further Board discussion.

Mr. Scott explained the fees were as follows:

Rossville Boulevard fee - \$620.99  
Hooker Road fee - \$733.72

The Chairman asked for final statement.

Tom Scott: Two salvage yards tonight, hard to categorize everything. Good time to decide how such yards are classified. All falls on cars runs off into aisles.

Ms. Powell: Like picking on auto lots, not bad people, need equal rights, lost junk yards to Georgia, too expensive to have in Chattanooga.

Fees calculated by ordinance. Only determination is area to be used in calculation. No measurement of impervious area has been made. Effective date October 1, 1993.

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Per attorney, Board can only deal with adjustment of area subject to use. Board needs information on areas effective and date areas were vacated.

Chairman asked that action be taken on separate properties: Rossville Boulevard and Hooker Road.

Action

Mr. Poe made motion to confirm document for the Rossville Boulevard property. Action seconded by Mrs. Lovelady. All in favor. Mr. Poe made motion to defer Hooker Road property to next meeting. Seconded by Mrs. Lovelady. All in favor.

Case 2. Howell E. Graham, Sr., GRACO, Inc., 4140 Jersey Pike

138 H B 005

Mr. Scott handed out information to Board, confirming that the intensity was based on 186,426 sq. ft. impervious area divided by .75 maximum 248,568 sq. ft. as industrial area and 28,376 sq. ft. of vacant land.

Mr. Graham explained that his fee should be calculated on multiplying by .75, not dividing by .75 to get area to be applied for fee. It was explained that the impervious area represents only 75% of tract to be taxed, so the dividing .75 increases it properly to the taxable total area with the rest considered vacant land.

Government is taxing Mr. Graham to death. Manufacturing can't survive.

Tom Scott said if detention pond was constructed, can get 25% credit for that part served if adequate design.

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This is new information that does not affect present fee.

The Chairman asked Mr. Scott if it is his testimony that figures are based on the ordinance. Mr. Scott confirmed that it was.

Motion to affirm calculation by Mr. Henry. Mike Poe seconded. All agreed.

Case 3. James R. Vandergriff, 4030 Adams Road 4930 1000 Fee

Tom Scott handed out material and explained nature of appeal.

This is another junk yard. The staff took area photography and outlined area that was impervious area and again applied factor to get fee. Almost total area used except corners.

Mr. Vandergriff stated he has been thirty years at site recycling auto parts, stating this was a salvage yard, not junk yard. A salvage yard is where parts are removed and sold. He has submitted drawing showing impervious areas. He has #75 stormwater permit with State of Tennessee and had received call saying needed to do something about getting mud on road. What do taxes pay for? State does not include gravel as impervious area. Going to stay there and fight. Seven hundred more or less cars have been hauled off area. Where cars were is impervious.

Mr. Phil W. James, consultant, said it is 18 or 19 acres, but 7 acres are not usable as is in flood area. Questioned if covered with trees, what cost would be. It was explained it would be 0, and Ordinance is based on square feet of lot and land use. It was further explained that a salvage yard is commercial on tax records but

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used zoning as manufacturing for fee calculations. It was again explained use was as of October 1, 1993. The \$5,500 stormwater fee vs. \$3,000 property tax was questioned. Was not 9 acres total with cars on it? Per aerial photo, it is all used for cars except small front areas.

Mr. Scott confirmed fee calculated within ordinance.

Mrs. Lovelady moved to confirm. Mr. Mike Poe seconded, passed by all.

Additional question from Mr. Vandergriff. Where is appeal. Mike McMahan explained that court was next appeal, within thirty days.

Additional statement from Mrs. Powell, "Water comes from God and should not mess with."

Ora Powell told of gas tank burning, had polluted soil.

Case 4. James R. Nash, 1831 Suck Road

Mr. Scott explained that these are residential tracts on the west side of Suck Creek Road. If had been on river side of street, they would be exempt as water flows direct to river. Mr. Nash's property drains through ditches, then through culvert to river.

Jim Nash said he can throw rock to river. When annexed, only got garbage, no sewer system. Only collection system for storm sewer is on valley ditch by road, and through culvert under road to river. If had storm system, it would be okay, but City should not charge to give no service.

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Mr. Nash explained that one lot is vacant. Tom Scott explained that will be confirmed and adjusted accordingly. He should only have fee on four lots.

The Chairman asked Mr. Scott if it is his testimony that property subject to fee because it does not sheet flow to river. Mr. Scott responded yes. Mrs. Lovelady made motion to confirm. Mr. Mike Poe seconded. All in favor.

B. Others not on Agenda

147 I - K - 027

Zella Tallent, 223 North Germantown Road, felt receiving double tax, as paid \$164.00 in sewer tax with only \$132.00 water. Feels tax is completely unfair and was not mandated by Congress as was told in notice of payment. Approached City Council against fee. Had over 100 signed cards disagreeing with fee. Was told that City Ordinance was only rule - read this many times. Has no problem on property, but only problem with fee.

Thought Board would be introduced. Noticed we had attorney, would not come without attorney. Would like to see no more need for Board as wants tax to be abolished.

As there was no other discussion, meeting was adjourned at 7:10 p.m.

Note: All information provided at the meeting is filed with these minutes. Audiotapes of meeting are also filed with these minutes.

Amended and  
Approved May 22, 1995  
*[Signature]*